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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/725,190

11/29/2003

Douglas Wooff

50325-0842

9853

29989

7590

07/01/2008

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EXAMINER

VU, TUAN A

ART UNIT

PAPER NUMBER

2193

MAIL DATE

DELIVERY MODE

07/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|  |  |   |  |
|--|--|---|--|
| <p align="center"><b>Advisory Action</b><br/><b>Before the Filing of an Appeal Brief</b></p> | <p><b>Application No.</b><br/>10/725,190</p> | <p><b>Applicant(s)</b><br/>WOOFF ET AL.</p> |  |
|  | <p><b>Examiner</b><br/>Tuan A. Vu</p>        | <p><b>Art Unit</b><br/>2193</p>             |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 06 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: \_\_\_\_\_.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Tuan A Vu/  
Primary Examiner, Art Unit 2193

Continuation of 3. NOTE: As for claim 10, which now includes additional limitations, Applicants have submitted that Mathur, based on Fig. 2 in Mathur, teaches away from verifying version by the node made after communication with the master node, as claimed. The alleged remarks would have to be deferred until the above added language of the amendments are entered and addressed. In light of the current state of the rejection, the un-amendment set of claims stand rejected and in order to not complicate matter for an appeal, the proposed amendments after final cannot be entered. Applicants have submitted that it is unreasonable to interpret (interpretation by the Office action using step 204 Fig. 2) packet reception as including specific information on software version for this information to be extracted by the destination node receiving this packet. As for the 'extracting version information' limitation, the verifying step as proffered based on Mathur involves a final step of receiving of a correct version AFTER a consistency check is made at the destination node, which includes checksum verification (which includes extracting for this CRC to be computed in terms of version validating information in regard to a supposedly new software) via relay action with an operator (see col. 5-6); clearly, the destination node has way to communicate with the master about correctness of this new version (version information) intended for distribution, leading to completing its reception at step 204. The limitation about 'verifies with master node' is deemed fulfilled. Regarding 'structure representing grouping of nodes' and the analogizing of hierarchy of privileges by the Office Action, the claim language requires categorizing nodes into class of nodes having same configuration. The scheme for distribution by the controller in Mathur operates via access privileges basis, such basis being a hierarchized structure, to enable only a certain amount of nodes in said structure eligible for receiving new software; i.e. privilege status whereby these nodes (Mathur: col. 5, li. 12-17) receive the software reads on a class of nodes having same configuration. The argument is not persuasive. The claims are not in conditions for allowance, and the latest proposed changes to the claims will not be entered because they require more consideration and would complicate effects of a potential Appeal.